IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 6060 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAMADBHAI REHMANBHAI SHAIKH

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION

Appearance: MR GK RATHOD for the Petitioner.
MR HARDIK C RAWAL for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/09/2001

ORAL JUDGEMENT

1. With the consent of the parties, the matter is taken up for final hearing today.

2. The petitioner-workman was subjected to departmental proceedings on the ground that because of rash and negligent driving, two persons, one a pedestrian and the other a scooter driver, lost their lives, on different dates. In the enquiry, said negligence on the part of the driver was proved and, therefore, he was subjected to withholding of three increments with future effect in one enquiry and he was subjected to penalty of reduction by two stages below in the original time scale in another enquiry, which related to the other incident.

Said penalty was challenged by him by raising Industrial Dispute, which was numbered as Reference (IT) No.21 of 1993. By order dated 16.7.1999, the Tribunal rejected the Reference. The Tribunal came to the conclusion that in the domestic enquiry, the misconduct of rash and negligent driving was proved, which resulted into loss of two lives. The Tribunal, therefore, came to the conclusion that it was not a case in which powers under Section 11-A can be exercised. It is required to be noted that the employment of the petitioner-workman concerned has already been protected by the Department itself and in my view, looking to the reasoning given by the Tribunal, it cannot be said that the Tribunal has committed any error of law or of jurisdiction while rejecting the Reference. This is not a case in which any powers under Section 11-A are required to be exercised, especially when the Department itself has taken a lenient view and has merely passed an order of withholding of some increments and another order of imposing penalty of reducing to two stages below in the original time scale. No interference of this Court is, therefore, called for. I do not find any substance in the petition and, therefore, the same is dismissed. Rule is discharged with no order as to costs.

28th September, 2001 (P.B. Majmudar, J.)

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(apj)